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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,912	08/22/2003	Kenneth Shanton	80006-00076	1605

38077 7590 12/13/2007

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EXAMINER
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CHAMPAGNE, LUNA

ART UNIT	PAPER NUMBER
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3627

NOTIFICATION DATE	DELIVERY MODE
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12/13/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

## Office Action Summary

**Application No.**

10/646,912

**Applicant(s)**

SHANTON, KENNETH

**Examiner**

LUNA CHAMPAGNE

**Art Unit**

3627

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/19/07 has been entered. Claims 1, 3-25 are presented for examination. Claim 2 is cancelled. Claims 21-25 are new.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garber et al. (US 7,044,373 B1), in view of Walsh et al. (6,394,290 B1).

3. As per claims 1, 9, 10, 20, Garber et al. teach a system for monitoring inventory in a point of purchase display comprising: the display stand further having at least one of a bottom wall, a side wall, a back wall, a top wall, a front wall (*See col. 15, lines 60-65*); at least one package, operably configured to be positioned on the at least one shelf (*See col. 15, lines 38-39*), the at least one package containing a radio frequency

Art Unit: 3627

identification tag (*See col. 13, lines 28-30*); at least one radio frequency antenna, affixed to at least one of the at least one shelf, the at least one of a bottom wall, a side wall, a back wall, a top wall, a front wall (*See col. 16, lines 19-21*); a radio frequency identification tag reader, operably connected to the radio frequency antenna, for transmitting to and receiving radio frequency signals from the radio frequency identification tag, the radio frequency identification tag reader being operably configured to generate signals representative of the presence and absence of radio frequency identification tags within the display stand (*See col.11, lines 36-40; col. 12 lines 45-53*), the radio frequency identification tag reader being operably connectable to a remotely situated monitoring apparatus, for providing a remote indication of the presence and absence of the at least one package containing a radio frequency identification tag, within the display (*See col. 12, lines 52-57*).

Garber et al. do not explicitly teach the portable display stand having at least one shelf, operably configured to support an article being displayed for sale thereon, the portable display stand configured to be collapsible and transportable; wherein the portable display stand is shipped to a destination in a folded flat configuration and erected at the destination.

However, Walsh et al. teach the portable display stand having at least one shelf, operably configured to support an article being displayed for sale thereon, the portable display stand configured to be collapsible and transportable (*a foldable, point-of purchase display stand is disclosed /such display stands are also portable - see e.g. abstract and col. 1, line 16*); wherein the portable display stand is shipped to a

Art Unit: 3627

destination in a folded flat configuration and erected at the destination (see e.g. col. 3, lines 56-58)

Therefore it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify Garber et al. by using a portable display stand having at least one shelf, operably configured to support an article being displayed for sale thereon, the portable display stand configured to be collapsible and transportable, as taught in Walsh et al., in order to expand the system and include sales.

As per claims 3 and 11, Garber et al. do not specifically teach a system, wherein the portable display stand is fabricated substantially completely from one of: paper; paperboard; corrugated paperboard; bristol board; foam cored board; plastic.

However, Walsh et al. teach a system wherein the portable display stand is fabricated substantially completely from one of: paper; paperboard; corrugated paperboard; bristol board; foam cored board; plastic (*see col. 1, lines 6-9*).

Therefore it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify Garber et al. by using a portable display stand fabricated substantially completely from corrugated paperboard, as taught by Walsh et al., in order to prevent interference with the RFID system from other materials.

As per claim 4, Garber et al. teach a system, wherein the portable display stand is at least partially covered with emf absorbing/shielding material (*See col. 8, lines 60-64*).

As per claim 5, Garber et al. teach a system, wherein the at least one radio frequency antenna is affixed to the portable display stand by printing the at least one radio frequency antenna on a surface of the portable display stand with metallic ink (*See col. 16, lines 7-10*).

As per claims 6 and 12, Garber et al. teach a system, wherein the at least one radio frequency antenna is embedded within the material from which the portable display stand is fabricated (*See col. 22, lines 9-10*).

As per claim 7, Garber et al. teach a system, wherein the portable display stand is provided with wheels to facilitate movement of the portable display stand (*See col. 15, lines 41-42; col. 16, lines 56-58*).

As per claim 8, Garber et al. teach a system, wherein the portable display stand incorporates a pallet structure (*See fig. 16*).

As per claims 13-19, Garber et al., in view of Walsh et al., lack the specific details/configurations described in Applicant's dependent claims.

However, it would have been obvious to one of ordinary skill in the art to modify Garber et al., in view of Walsh et al., to incorporate the specific details/configurations

Art Unit: 3627

described in Applicant's dependent claims as a design choice, in order to hide the antenna/wire from public reach for safety and/or aesthetic reasons.

As per claims 21 and 22, Garber et al. teach a system wherein said monitoring apparatus is configured to maintain a running inventory of a plurality of articles positioned on the at least one shelf ( see e.g. col. 9, lines 25-28); wherein said monitoring apparatus is configured to communicate the running inventory to an inventory computer (*see e.g. col. 11, lines 47-50; col. 13, lines 59-61 – the handheld device can communicate with a separate database*).

4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garber et al. (US 7,044,373 B1), in view of Walsh et al. (6,394,290 B1), in further view of Weaver (6813771 B2)

As per claim 23, Garber et al., in view of Walsh et al. , do not explicitly teach a system wherein the display stand is configured as a shipping container for carrying a plurality of articles to the point of purchase, said front wall being at least one of integrally formed with at least one of the bottom wall, the side wall, and the top wall, and detachably coupled to at least one of the bottom wall, the side wall, and the top wall wherein the front wall is configured to be at least partially moved to display the at least one article for sale.

However, Weaver teaches a system wherein the display stand is configured as a shipping container for carrying a plurality of articles to the point of purchase, said front wall being at least one of integrally formed with at least one of the bottom wall, the side wall, and the top wall, and detachably coupled to at least one of the bottom wall, the side wall, and the top wall wherein the front wall is configured to be at least partially moved to display the at least one article for sale (see e.g. col. 3, lines 15-18).

Therefore it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify Garber et al., in view of Walsh et al., and a display stand is configured as a shipping container for carrying a plurality of articles to the point of purchase, said front wall being at least one of integrally formed with at least one of the bottom wall, the side wall, and the top wall, and detachably coupled to at least one of the bottom wall, the side wall, and the top wall wherein the front wall is configured to be at least partially moved to display the at least one article for sale, as taught by Weaver., in order to create a multipurpose, more marketable stand.

5. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garber et al. (US 7,044,373 B1), in view of Walsh et al. (6,394,290 B1), in further view of Palmer et al. (5530702)

As per claim 24, Garber et al., in view of Walsh et al. do not teach an inventory computer communicatively coupled to said radio frequency identification tag reader, said radio frequency identification tag reader configured to continuously interrogate said RFID tags, said inventory computer configured to decrement a running inventory of



Art Unit: 3627

articles when one of the at least one "articles is removed from the at least one shelf and to increment the running inventory of articles when an articles is positioned on the at least one shelf.

However, Palmer et al. teach an inventory computer communicatively coupled to said radio frequency identification tag reader, said radio frequency identification tag reader configured to continuously interrogate said RFID tags, said inventory computer configured to decrement a running inventory of articles when one of the at least one "articles is removed from the at least one shelf and to increment the running inventory of articles when an articles is positioned on the at least one shelf (*see e.g. col. 7, lines 1-14*).

Therefore it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify Garber et al., in view of Walsh et al., by including an inventory computer communicatively coupled to said radio frequency identification tag reader, said radio frequency identification tag reader configured to continuously interrogate said RFID tags, said inventory computer configured to decrement a running inventory of articles when one of the at least one "articles is removed from the at least one shelf and to increment the running inventory of articles when an articles is positioned on the at least one shelf, as taught by Palmer et al., in order to incorporate inventory tracking in the system.

### **Reply to Arguments:**

Art Unit: 3627

6. Applicant's arguments with respect to claims 1, 3-20 have been considered and are addressed in the rejection above and are not persuasive. As highlighted in the rejection, Garber et al. disclose an RFID system attached to a stand which performs Applicant's limitations. Walsh et al. disclose a foldable, point of purchase display stand as claimed by Applicant. Applicant argues that "it would be apparent to one skilled in the art, that the use of collapsible does not refer to the instance where the point of purchase display collapses under the weight of the articles on a cart made of the material described in Shrirer". The Examiner believes that Schirer's teaching of "a portable display board that can fold into an easily transportable configuration" is equivalent to Applicant's claimed limitations of "portable collapsible and transportable". Nevertheless, Walsh et al. clearly anticipate those same limitations.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Berquist et al. (US 7,161,470 B2), Rolin (US 6,825,754, B1), Kahn et al. (US 6,234,394 B1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luna Champagne whose telephone number is (571) 272-7177. The examiner can normally be reached on 8:30 - 5:00.

Art Unit: 3627

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit 3627

Luna Champagne  
Examiner  
Art Unit 3627

December 7, 2007